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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/732,948	12/07/2000	Michael Wray	B-4052 618408-0	2780

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EXAMINER

WRIGHT, NORMAN M

ART UNIT

PAPER NUMBER

2134

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/732,948

Applicant(s)

WRAY, MICHAEL

Examiner

Norman M. Wright

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☒ Claim(s) 10-13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

NORMAN M. WRIGHT
PRIMARY EXAMINER

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/12/01, 9/24/01.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-13 are present for examination.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-13 are rejected under 35 U.S.C. 101 because, they are functional descriptive material per se and are not statutory because they are neither physical "things" nor define any structural and functional interrelationship between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized.

3. Claims 1-13 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility.

The claims lack a specific field of use and are not drawn to any statutory class of invention. The claims appear to be an attempt to claim a data structure without embodying the structure on a computer readable medium. As such, they are functional descriptive material per se and are not statutory because they are neither physical "things" nor define any structural and functional interrelationship between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. The claims do not appear to be drawn to a statutory class of invention.

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Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 1-13 are also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

The deficiency under 101 also creates a deficiency under 112, first paragraph. Obviously if a claimed invention does not have utility, the specification cannot enable one to use it. The rationale for this rejection has been recited above, with respect to the 101, as lacking an invention drawn to a statutory invention. In re Ziegler, 992 F.2d

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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As to claims 1-13, they fail to recite how or what invention is being claimed.

Particularly, it is unclear whether the invention is a method, data structure, or device type of claim, as such it is not clearly understood by the examiner.

8. Claims 10-13 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. Here claim 9 is a multiple dependent claim. See MPEP § 608.01(n).

Accordingly, the claims 10-13 have not been further treated on the merits.

9. Claims 10-13 attempts to recite an apparatus form of the invention. Applicant is reminded that an apparatus claim must distinguish over the prior art in terms of structure rather than function. Here it is unclear what is being claimed, as it appears to lack an apparatus type structure.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Ginter et al., 6,658,568, hereinafter '658.

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12. As per claims 1-9, as they are understood by the examiner in view of the 101 and 112 concerns mentioned above, '568 teaches a trusted infrastructure support system and method, comprising: an electronic certificate, content data, attribute delegation/chain, conditional requirements/control sets, satisfaction of conditions, subjects, multiple relationships, certification validity, date range, revocation list, permissions, see '658 at figs. 3-4, 7a-9, 17, 25, 47, 50-51, 58, abs., col. 1, lines col. 3-13 et seq., col. 77-80, claims 1-2 et eq..

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Norman M. Wright at telephone number (703) 305-9586.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norman M. Wright whose telephone number is (703) 305-9586. The examiner can normally be reached on Mondays from 8am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Morse, can be reached on (703) 308-4789. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

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NORMAN M. WRIGHT
PRIMARY EXAMINER